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Attorneys for Defendant TOSHIBA AMERICA,  
INC.

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

GUARDIAN MEDIA TECHNOLOGIES, LTD.,	) Case No. 08 CV 1859 W RBB
	)
Plaintiff,	)
	) <b>ANSWER OF DEFENDANT TOSHIBA</b>
v.	) <b>AMERICA, INC.</b>
	)
	) <b>and</b>
PHILIPS ELECTRONIC NORTH	)
AMERICA CORPORATION and	) <b>DEMAND FOR JURY TRIAL</b>
TOSHIBA AMERICA CONSUMER	)
PRODUCTS, L.L.C. and	)
TOSHIBA AMERICA, INC.,	)
	)
Defendants.	)
	)

1 Defendant TOSHIBA AMERICA, INC. (“TAI”) hereby answers the Amended  
2 Complaint for Patent Infringement filed by Plaintiff GUARDIAN MEDIA  
3 TECHNOLOGIES, LTD. (“Guardian”), as follows:

4 **I. THE PARTIES**

5 1. TAI lacks sufficient knowledge or information to admit or deny the allegations  
6 of Paragraph 1 of the Amended Complaint, and on that basis, denies the allegations of  
7 Paragraph 1 of the Amended Complaint.

8 2. TAI lacks sufficient knowledge or information to admit or deny the allegations  
9 of Paragraph 2 of the Amended Complaint, and on that basis, denies the allegations of  
10 Paragraph 2 of the Amended Complaint.

11 3. TAI denies that Defendant TOSHIBA AMERICA CONSUMER PRODUCTS,  
12 L.L.C. is a limited liability corporation; it is a limited liability company. TAI admits the  
13 remaining allegations of Paragraph 3 of the Amended Complaint.

14 4. TAI admits the allegations of Paragraph 4 of the Amended Complaint.

15 **II. JURISDICTION AND VENUE**

16 5. TAI admits that the Amended Complaint purports to assert a claim for patent  
17 infringement. TAI admits that this Court has subject matter jurisdiction over this action.

18 6. TAI admits that the Court has personal jurisdiction over it, but TAI denies the  
19 remaining allegations of Paragraph 6 of the Amended Complaint.

20 **III. BACKGROUND FACTS**

21 7. TAI admits that Exhibit A attached to the Amended Complaint appears to be a  
22 copy of U.S. Patent No. 4,930,158 (the “158 patent”), which is entitled “Selective Video  
23 Playing System” and bears an issue date of May 29, 1990. TAI lacks sufficient knowledge or  
24 information to admit or deny the remaining allegations of Paragraph 7 of the Amended  
25 Complaint, and on that basis, denies the remaining allegations of Paragraph 7 of the Amended  
26 Complaint.

27 ///

28 ///

1           8.       TAI lacks sufficient knowledge or information to admit or deny the allegations  
2 of Paragraph 8 of the Amended Complaint, and on that basis, denies the allegations of  
3 Paragraph 8 of the Amended Complaint.

4           9.       TAI lacks sufficient knowledge or information to admit or deny the allegations  
5 of Paragraph 9 of the Amended Complaint, and on that basis, denies the allegations of  
6 Paragraph 9 of the Amended Complaint.

7           10.      TAI admits that no entity can be liable for alleged infringement of the '158  
8 patent with respect to any activities occurring after August 29, 2008. However, TAI denies  
9 the remaining allegations of Paragraph 10 of the Amended Complaint.

10                               **IV. INFRINGEMENT OF THE '158 PATENT**

11           11.      TAI incorporates by reference its responses above to Paragraphs 1-10 as  
12 though fully set forth herein.

13           12.      TAI denies the allegations against TAI of Paragraph 12 of the Amended  
14 Complaint, and lacks sufficient knowledge or information to admit or deny the remaining  
15 allegations of Paragraph 12 of the Amended Complaint, and on that basis, denies the  
16 remaining allegations of Paragraph 12 of the Amended Complaint.

17           13.      TAI denies the allegations against TAI of Paragraph 13 of the Amended  
18 Complaint, and lacks sufficient knowledge or information to admit or deny the remaining  
19 allegations of Paragraph 13 of the Amended Complaint, and on that basis, denies the  
20 remaining allegations of Paragraph 13 of the Amended Complaint.

21           14.      TAI denies the allegations against TAI of Paragraph 14 of the Amended  
22 Complaint, and lacks sufficient knowledge or information to admit or deny the remaining  
23 allegations of Paragraph 14 of the Amended Complaint, and on that basis, denies the  
24 remaining allegations of Paragraph 14 of the Amended Complaint.

25                               **V. AFFIRMATIVE DEFENSES**

26           TAI hereby asserts and interposes the following affirmative defenses to the claim of  
27 infringement of the '158 patent, asserted by Guardian against TAI in the Amended  
28 Complaint:

**FIRST AFFIRMATIVE DEFENSE**

**(No Infringement of the '158 Patent)**

15. TAI does not and has not infringed, induced others to infringe, or contributed to the infringement of any valid claim of the '158 patent.

**SECOND AFFIRMATIVE DEFENSE**

**(Invalidity of the '158 Patent)**

16. Each and every claim of the '158 patent is invalid for failing to meet one or more of the requirements of Title 35 of the United States Code, including, without limitation, those specified in §§ 102, 103, and 112.

**THIRD AFFIRMATIVE DEFENSE**

**(Laches)**

17. Guardian's claims are barred by the doctrine of laches due to Guardian's extensive and prejudicial delay in bringing its claims.

**FOURTH AFFIRMATIVE DEFENSE**

**(Equitable Estoppel)**

18. Guardian's claims are barred by the doctrine of equitable estoppel due to Guardian's extensive and prejudicial delay in bringing its claims.

**VI. DEMAND FOR JUDGMENT**

WHEREFORE, TAI demands judgment in its favor, and against Guardian, providing the following relief:

A. That Guardian take nothing by way of its Amended Complaint and that all claims against TAI be dismissed with prejudice;

B. A declaration that TAI has not infringed U.S. Patent No. 4,930,158;

C. A declaration that U.S. Patent No. 4,930,158 is invalid;

D. A declaration that U.S. Patent No. 4,930,158 is unenforceable due to laches and/or equitable estoppel;

E. A declaration that this is an "exceptional case" pursuant to 35 U.S.C. § 285;

///

1 F. That TAI recover its attorneys' fees and costs incurred in this action pursuant  
2 to 35 U.S.C. § 285;

3 G. That the Court grant TAI such other and further relief as it may deem just and  
4 proper.

5 KNOBBE, MARTENS, OLSON & BEAR, LLP

6  
7 Dated: November 6, 2008

By: /s/ John W. Holcomb

Craig S. Summers

John W. Holcomb

Irfan A. Lateef

Andrew J. Hall

Attorneys for Defendant TOSHIBA AMERICA,  
10 INC.

11  
12 **DEMAND FOR JURY TRIAL**

13 Defendant TOSHIBA AMERICA, INC. hereby demands a trial by jury with respect to  
14 all claims triable by a jury in the above-captioned action.

15 KNOBBE, MARTENS, OLSON & BEAR, LLP

16  
17 Dated: November 6, 2008

By: /s/ John W. Holcomb

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Attorneys for Defendant TOSHIBA AMERICA,  
20 INC.

**PROOF OF SERVICE**

On November 6, 2008, I caused the **ANSWER OF DEFENDANT TOSHIBA AMERICA, INC. and DEMAND FOR JURY TRIAL** to be electronically filed with the Clerk of the Court using the CM/ECF system which will send electronic notification of such filing to the following persons:

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Executed on November 6, 2008 at Riverside, California.

/s/ John W. Holcomb  
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